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Daniel A. Monaco
SEIDEL, GONDA, LAVORGNA
& MONACO, P.C.
1800 Two Penn Center Plaza
Philadelphia, Pennsylvania 19102

In re Application of
Michel RIERA
Serial Nos.: 09/242,191 and 09/242,272
PCT No.: PCT/FR97/01488
Int. Filing Date: 13 August 1997
Priority Date: 13 August 1996
Attorney's Docket Nos.: 144-198 and 144-198(2)
For: DEVICE FOR GENERATING
MAGNETIC FIELDS FOR
CATALYZING PHYSICO-CHEMICAL
REACTIONS

DECISION ON
PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "REQUEST FOR WITHDRAWAL OF NOTICE OF ABANDONMENT" filed by facsimile on 27 July 2000. Applicant requests that the two files 09/242,191 and 09/242,272 be combined into one file and that the Notification of Abandonment of Application issued by the Office on 06 January 2000 be withdrawn. Applicant's Request is being treated as a Petition under 37 CFR 1.181 for withdrawal of the holding of abandonment in the present application. No petition fee is required.

BACKGROUND

On 13 August 1997, applicant filed international application PCT/FR97/01488, which claimed priority of an earlier French application filed 13 August 1996. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 19 February 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 27 February 1998, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month

period for paying the basic national fee to enter the national stage in the United States expired at midnight on 13 February 1999.

On 10 February 1999, applicant filed a Transmittal Letter for entry into the national stage in the United States under 35 U.S.C. 371. Filed with the Transmittal Letter were, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a translation of the international application which was misrepresented as a copy of the international application as required by 35 U.S.C. 371(c)(2); and an unsigned declaration of the inventor. These papers were assigned application number 09/242,191.

On 12 February 1999, applicant refiled the same papers as mentioned above for entry into the national stage in the United States but with a transmittal letter, which correctly identifies the English text of the description and claims as the translation of the international application. These papers were stamped with serial number 09/242,272.

On 10 May 1999, the United States Designated Office/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905), to inform applicant that the oath or declaration of the inventor must be submitted in order to avoid abandonment of the application as to the United States. Meanwhile, a declaration of the inventor in compliance with 37 CFR 1.497 was submitted on 17 May 1999 for serial number 09/242,272.

On 06 January 2000, the DO/EO/US issued a Notification of Abandonment (Form PCT/DO/EO/909) in serial number 09/242,191, indicating that the application is abandoned because "Applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905) mailed 10 May 99 within the time period set therein."

On 27 July 2000, applicant filed the present petition requesting that the two files 09/242,191 and 09/242,272 be merged into one file and that the Notification of Abandonment of Application issued 06 January 2000 be withdrawn since a declaration of the inventor was timely submitted for the national stage of application PCT/FR97/01488 on 17 May 1999 in response to the Notice of Missing Requirements of 10 May 1999.

DISCUSSION

As is evident from the above recited facts, applicant submitted two sets of papers to enter the national stage for the same international application. The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of two sets of national stage papers to enter the United States was improper.

Applicant's request for withdrawal of holding of abandonment due to failure to respond to the Office action of 10 May 1999 may be GRANTED because the correct

procedure is to combine in one file all the application papers submitted for entry into the national stage in the United States for PCT/FR97/01488, and by so doing, applicant timely responded to the Notice of Missing Requirements of 10 May 1999 with the submission of the Declaration of the inventor on 17 May 1999.

DECISION

In view of the above discussion, the papers filed on 12 February and 17 May 1999 in serial number 09/242,272 have been placed in application number 09/242,191. The Petition under 37 CFR 1.181 for withdrawal of the holding of abandonment in the present application is GRANTED.

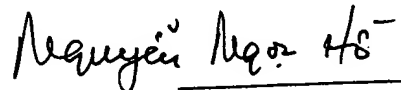
Applicant should use application number **09/242,191** in all future communications with the Patent and Trademark Office in regards to the U.S. national stage of international application PCT/FR97/01488.

This application is being returned to the DO/EO for further processing, including the issuance of a Notification of Acceptance of Application (Form PCT/DO/EO/903) with a 35 U.S.C. 371(c) and 102(e) date of 17 May 1999, and the preparation and mailing of a filing receipt.



Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

NNH/LES:hn



Nguyễn Ngọc-Hô
Paralegal Specialist
PCT Legal Office

Tel: (703) 308-6508